EX PARTE OR LATE FILED

JOINT CENTER

AEI-BROOKINGS JOINT CENTER FOR REGULATORY STUDIES

RECEIVED & INSPECTED
MAR 2 0 2006
FCC - MAILROOM

ORIGINAL

March 15, 2006

DOCKET FILE COPY ORIGINAL

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Martin,

We thought the enclosed statement from Elizabeth E. Bailey, Martin Neil Baily, William J. Baumol, Peter Cramton, Gerald R. Faulhaber, Kenneth Flamm, Richard Gilbert, Austan Goolsbee, Shane Greenstein, Robert E. Hall, Thomas W. Hazlett, Alfred E. Kahn, John Mayo, Paul Milgrom, Janusz A. Ordover, Robert S. Pindyck, Gregory L. Rosston, Scott J. Savage, Howard Shelanski, Richard L. Schmalensee, Pablo T. Spiller, Hal R. Varian, Scott Wallsten, and Dennis L. Weisman would be useful in your deliberations on the implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Protection and Competition Act of 1992.

Sincerely,

Bob Hahn   Bob Litan

Robert W. Hahn
Executive Director

Robert E. Litan
Director

No. of Copies rec'd 0+9
List ABCDE

Docket No: 05-311

1150 Seventeenth Street, N.W., Washington, D.C. 20036 • 202.862.5847 • Fax 202.862.7169 • www.aei.brookings.org

J O I N T C E N T E R
AEI-BROOKINGS JOINT CENTER FOR REGULATORY STUDIES

Economists' Statement on U.S. Broadband Policy

Elizabeth E. Bailey, Martin Neil Baily, William J. Baumol, Peter Cramton, Gerald R. Faulhaber, Kenneth Flamm, Richard Gilbert, Austan Goolsbee, Shane Greenstein, Robert W. Hahn, Robert E. Hall, Thomas W. Hazlett, Alfred E. Kahn, Robert E. Litan, John Mayo, Paul Milgrom, Janusz A. Ordover, Robert S. Pindyck, Gregory L. Rosston, Scott J. Savage, Richard L. Schmalensee, Howard Shelanski, Pablo T. Spiller, Hal R. Varian, Scott Wallsten and Dennis L. Weisman*

Related Publication 06-06
March 2006

Docket No: 05-311

*The views in this paper represent those of the authors and not necessarily those of the institutions with which they are affiliated. The authors gratefully acknowledge the help of Sasha Gentling and Laura Goodman. Support for this statement was provided by the AEI-Brookings Joint Center. A listing of Joint Center funders is available at www.aei-brookings.org.

Economists' Statement on U.S. Broadband Policy

Broadband, or high-speed access to the Internet, has generated significant economic benefits. Certain regulations, however, are slowing investment and deterring entry into the broadband market. In this statement, we make the following two recommendations that would remedy these regulatory defects and thereby lower artificial barriers to competitive provision of broadband services:

> **Recommendation 1**: *Congress should eliminate local franchising regulations, which serve as a barrier to new entry.*
>
> **Recommendation 2:** *Congress and the Federal Communications Commission should make more spectrum available to private parties and allow them to use it or trade the right to use it, so that spectrum will go to its highest-valued uses.*

The bottom line is that investment in broadband should be as easy as possible. Regulations that primarily protect incumbents or serve as barriers to entry should be removed.

Local Regulation

Some firms that want to provide broadband services currently must obtain local approval and access to rights of way, pay fees, and meet regulatory obligations regarding service provision. These obstacles can slow investment and deter entry.

For example, if a firm wants to provide video services over broadband lines it must negotiate with every franchising authority in its coverage area. The FCC (1997) has noted that approximately 33,000 municipalities in the U.S. have the authority to issue franchise licenses. Dealing with every city separately is slow and costly, and discourages competitive entry. Such delay can reduce consumer welfare. Research by the Government Accountability Office suggests that telecommunications service prices were 15 to 41 percent lower in cities with the new entrants than in cities without (GAO 2004), and that cable prices were about 15 percent lower in cities with wireline video competition (GAO 2005).

What might a better regulatory environment look like? It would not be totally bereft of regulation, but it should not include franchising or other rules that do little more than block or delay entry.

Congress should preempt local and state governments from requiring providers to obtain local franchises to offer new services. There is no economic rationale for allowing cities to control who can provide broadband or related services.

At the same time, however, Congress should recognize that many municipalities rely on franchise fees, but it should insist that fees be non-discriminatory. Ideally, any fees would reflect costs imposed by firms on the city.

Spectrum allocation

High-speed Internet connections can also be provided using wireless networks. Much of the potentially most valuable spectrum, however, is not available for its most productive uses (Kwerel and Williams 2002). The FCC should make additional licensed spectrum available for flexible use as soon as possible and allow it to be traded so that spectrum can be allocated to its highest-valued uses.

Removing the existing artificial scarcities could lead to improved competition not only among conventional wireless services, but also to the creation of new services, including alternative methods of high-speed Internet access.

Conclusion

We have offered two recommendations for removing artificial regulatory barriers to the operation of an efficient market for broadband services. The first recommendation aims to reduce local regulatory burdens that arbitrarily restrict broadband entry and investment. The second recommendation aims to change federal policy so as to reduce barriers to wireless innovation and entry, thereby fostering the development of wireless broadband options.

References

Federal Communications Commission. 1997. "In the Matter of Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992, Statistical Report on Average Rates for Basic Service, Cable Programming and Equipment: Report on Cable Industry Prices." Washington, DC.

GAO. 2004. "Wire-Based Competition Benefited Consumers in Selected Markets." Washington, DC.

_______. 2005. "Direct Broadcast Satellite Subscribership Has Grown Rapidly, but Varies across Different Types of Markets." *Report to the Subcommittee on Antitrust, Competition Policy and Consumer Rights, Committee on the Judiciary.* U.S. Senate.

Kwerel, Evan and John Williams. 2002. "A Proposal for a Rapid Transition to Market Allocation of Spectrum." *FCC OPP Working Paper Series*: Washington, DC.

Elizabeth E. Bailey
University of Pennsylvania

Martin Neil Baily
Institute for International Economics

William J. Baumol
New York University

Peter Cramton
University of Maryland

Gerald R. Faulhaber
University of Pennsylvania

Kenneth Flamm
University of Texas, Austin

Richard Gilbert
University of California, Berkeley

Austan Goolsbee
University of Chicago

Shane Greenstein
Northwestern University

Robert W. Hahn
AEI-Brookings Joint Center

Robert E. Hall
Stanford University

Thomas W. Hazlett
George Mason University

Alfred E. Kahn
Cornell University

Robert E. Litan
AEI-Brookings Joint Center

John Mayo
Georgetown University

Paul Milgrom
Stanford University

Janusz A. Ordover
New York University

Robert S. Pindyck
Massachusetts Institute of Technology

Gregory L. Rosston
Stanford University

Scott J. Savage
University of Colorado, Boulder

Howard Shelanski
University of California, Berkeley

Richard L. Schmalensee
Massachusetts Institute of Technology

Pablo T. Spiller
University of California, Berkeley

Hal R. Varian
University of California, Berkeley

Scott Wallsten
AEI-Brookings Joint Center

Dennis L. Weisman
Kansas State University